EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

DECISION

Application no. 64249/17
Jonas ČEBELIS
against Lithuania

The European Court of Human Rights (Second Section), sitting on 16 June 2020 as a Committee composed of:

Ivana Jelić, *President,*
Egidijus Kūris,
Darian Pavli, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 August 2017,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Jonas Čebelis, is a Lithuanian national who was born in 1950 and lives in Vilnius. He was represented before the Court by Ms E. Bakienė, a lawyer practising in Vilnius.

2. The Lithuanian Government ("the Government") were represented by their Agent, Ms L. Urbaitė.

A. The circumstances of the case

3. In May 2000 the applicant bought 1.34 hectares of land in Aukštadvaris Regional Park, in the Trakai Region. The regional park had been established in 1992 with the aim of preserving the landscape and the natural ecosystem. According to the data in the Real Estate Register, the purpose of the plot bought by the applicant was agriculture, and since 1999 its use had been subject to restrictions applicable to national and regional parks, bodies of water, swamps, and landscape reserves (see paragraphs 35 and 36 below).

4. In 2002 the authorities adopted a regulation on the protection of Aukštadvaris Regional Park, which stated, *inter alia*, that the construction of new homesteads in the regional park was allowed only if that had been provided for in the relevant planning documents (see paragraph 39 below). The territorial plan of Aukštadvaris Regional Park was adopted in 2005. It did not change the restrictions applicable to the applicant's plot (see paragraph 3 above), and did not provide for the possibility to construct new buildings in the area where the plot was situated.

1. Proceedings concerning unlawful construction

(a) First set of proceedings

5. In June 2002 the authorities examined the applicant's land and found that he had unlawfully built a wooden shed. He was given a fine. The applicant lodged several requests with the authorities in an effort to retroactively legalise the construction, but they were all dismissed. In March 2004 the Vilnius County Administration ordered the applicant to demolish the building.

6. The applicant lodged a complaint against the demolition order. He submitted that the Law on Protected Areas did not prohibit the construction of buildings which were related to the purpose for which the protected area had been established (see paragraph 37 below), and argued that the shed was necessary for him to properly manage the land.

7. On 21 June 2004 the Vilnius Regional Administrative Court dismissed the applicant's complaint. It observed that construction in protected areas was allowed only in accordance with planning documents and other legal instruments adopted by competent authorities (see paragraph 39 below). Since the applicant had failed to obtain the relevant permits for construction from the authorities, the shed had been built unlawfully and had to be demolished.

8. The applicant appealed against that decision, but on 3 November 2004 the Supreme Administrative Court dismissed his appeal. It held that none of the conditions under which construction on the applicant's plot could be allowed had been fulfilled (see paragraph 37 below): the relevant territorial planning documents did not provide for the possibility to build buildings on the plot; there was no evidence that there had previously been a homestead on the plot; and the applicant's claim that the building was related to the purpose of the protected area (the protection of landscape diversity) was unfounded. Since construction on the plot was prohibited, the building which had been unlawfully built there could not be legalised *ex post facto*.

(b) Second set of proceedings

9. In August 2013 the authorities examined the applicant's land again and found that the shed which had been unlawfully built in 2002 (see paragraph 5 above) was still there. The State Inspectorate of Territorial

Planning and Construction under the Ministry of the Environment (*Valstybinė teritorijų planavimo ir statybos inspekcija prie Aplinkos ministerijos*, hereinafter "the Inspectorate") lodged a claim against the applicant with the Trakai District Court, asking the court to order the applicant to demolish the building, and, in the event that he failed to do so, to allow the authorities to demolish it at the applicant's expense. The management of Aukštadvaris Regional Park supported the claim, submitting that the shed was not related to the purposes of the protected area in any way.

10. The applicant contested the claim. He argued, *inter alia*, that there had previously been a homestead on the plot and that the shed had been built in its place, which made the construction of the shed lawful (see paragraph 37 below).

11. On 16 November 2016 the Trakai District Court allowed the Inspectorate's claim and ordered the applicant to demolish the shed within three months. It noted that the unlawfulness of the building and the applicant's obligation to demolish it had already been established by final court decisions adopted in 2004 (see paragraphs 7 and 8 above). Since the restrictions applicable to the plot had remained unchanged, the unlawfulness of the construction persisted. Although the applicant claimed that there had previously been a homestead on his plot, the court observed that the authorities in charge of the management of Aukštadvaris Regional Park disputed that claim, and the existence of a homestead had not been established by a court decision (see paragraph 37 below), therefore it was unproven.

12. The applicant appealed against that decision, but on 30 May 2017 the Vilnius Regional Court dismissed his appeal. It emphasised that the law prohibited construction on the applicant's plot, and that it had not been proved that any of the exceptions (see paragraph 37 below) were applicable.

2. The applicant's proposals to change the purpose of his land

13. In 2012 the State Service for Protected Areas under the Ministry of the Environment (*Valstybinė saugomų teritorijų tarnyba prie Aplinkos ministerijos*, hereinafter "the SSPA") launched a procedure to amend the territorial plan of Aukštadvaris Regional Park. The entity in charge of preparing a new territorial plan was the Nature Heritage Fund, a public institution (*Viešoji įstaiga Gamtos paveldo fondas*, hereinafter "the NHF"). At the stage when the new territorial plan was being prepared, the public had the right to submit proposals to the NHF (see paragraph 40 below).

14. In May 2013 the applicant submitted a proposal to the NHF to change the purpose of his land to recreation and to allow him to build a homestead, which he intended to use for tourism. In February 2014 he submitted an additional proposal to change the purpose of his land to education in order to use it for environmental research. He enclosed a letter

from a university researcher who had expressed interest in carrying out environmental research on his plot.

15. In May 2014 the NHF informed the applicant that the purpose of his land could not be changed to either recreation or education. It noted that one part of the plot was covered by freshwater swamp forest and another part constituted protected landscape. Therefore, building a homestead would have a negative impact on the fragile ecosystem. The NHF pointed out that such a negative impact had already been observed after the applicant had constructed some buildings (see paragraph 5 above), cut down trees and started growing a lawn and a garden. It observed that there was no information that there had ever been a homestead on the applicant's plot. The NHF further noted that the plot was not suitable for environmental research because it was far from walking trails and difficult to reach. In addition, Aukštadvaris Regional Park contained areas which were better suited for research and were already used for that purpose. The NHF informed the applicant that, in view of those circumstances, the new territorial plan did not foresee any changes with regard to his plot.

16. The applicant complained to the SSPA that the NHF had unfairly dismissed his proposals. In July 2014 the SSPA dismissed his complaint and found that the response given by the NHF (see paragraph 15 above) had been properly reasoned. It observed that a large part of the applicant's plot was covered by forest, and under domestic law, changing the purpose of forest land situated in protected areas was allowed only when it was in the public interest (see paragraph 38 below), but the applicant's proposals (see paragraph 14 above) had concerned only his personal interests. It also noted that the applicant had been aware of the restrictions applicable to the land when he had bought it (see paragraph 3 above), and reiterated that the new territorial plan did not foresee any changes with regard to his plot.

17. The applicant lodged a complaint against the SSPA with the Inspectorate. In September 2014 the Inspectorate dismissed his complaint. It stated that the new territorial plan of Aukštadvaris Regional Park had not yet been submitted to it for verification (see paragraph 41 above), and thus it was not able to examine whether that plan had been prepared in accordance with the relevant law. If any violations of the law were detected at verification stage, then the Inspectorate would not approve the territorial plan (see paragraphs 43 and 44 below). The Inspectorate also pointed out that in his complaint the applicant had omitted to mention the presence of unlawful buildings on his plot, and the fact that a case concerning their demolition was pending before the courts (see paragraph 9 above).

3. Proceedings concerning the applicant's proposals

(a) Proceedings concerning the refusal of the applicant's proposals

18. The applicant lodged a complaint against the Inspectorate with the Vilnius Regional Administrative Court. He submitted that the new territorial

plan, which did not foresee any changes with regard to his land, unfairly and disproportionately restricted his right to use the land for recreational and educational purposes. He also submitted that the Inspectorate had not examined whether the dismissal of his proposals had complied with the law, and whether it had been well founded (see paragraph 17 above).

19. The Inspectorate contested the applicant's complaint. It submitted that the activities which the applicant wished to carry out (see paragraph 14 above) were incompatible with the restrictions applicable to nature reserves. It also stated that the new territorial plan of Aukštadvaris Regional Park was a plan on a grand scale, and it was not designed to determine permissible activities on individual plots.

20. On 22 December 2014 the Vilnius Regional Administrative Court dismissed the applicant's complaint. It observed that the law did not require the territorial planning authorities to accept all proposals submitted to them, and they were only obliged to provide sufficiently reasoned responses in writing (see paragraphs 40 and 45 below). The court considered that the decision of the NHF (see paragraph 15 above) had been sufficiently reasoned. It further stated that, at that stage of the planning process, the Inspectorate only had to assess whether the NHF had provided sufficient reasons for dismissing the proposals, and not whether the dismissal itself had been lawful – that would be assessed at a later stage, when the prepared territorial plan was submitted to the Inspectorate for verification (see paragraphs 41 and 43 below).

21. The applicant lodged an appeal against that decision, but on 30 July 2015 the Supreme Administrative Court dismissed it and upheld the key findings of the lower court (see paragraph 20 above).

(b) Proceedings concerning the verification act

22. In May 2016 the NHF finished preparing the new territorial plan of Aukštadvaris Regional Park and presented it to the Inspectorate for verification (see paragraph 41 below). That same month the Inspectorate adopted a document, a "verification act" (*patikrinimo aktas*), in which it concluded that the territorial plan had been prepared in accordance with the relevant legal instruments.

23. The applicant lodged a complaint against the Inspectorate with the Vilnius Regional Administrative Court. He argued that his proposals had been dismissed in the absence of sufficient grounds, and asked the court to order the Inspectorate to carry out a fresh verification of the territorial plan.

24. On 23 June 2016 the Vilnius Regional Administrative Court refused to examine the applicant's complaint. It held that by verifying the territorial plan and adopting a conclusion, the Inspectorate had not performed any acts of public administration which might have affected the applicant's rights or interests, or obliged him to act in any particular way. Accordingly, the

verification act had not created any legal consequences for the applicant, and his complaint could not be examined by a court.

25. The applicant appealed against that decision and on 7 September 2016 the Supreme Administrative Court remitted the case to the lower court for a fresh examination. It stated that a court could refuse to examine a complaint only in exceptional cases, when, at the initial stage of proceedings, it was already evident that the acts complained of could not create any legal consequences. The Supreme Administrative Court considered that without examining the merits of the applicant's complaint, it could not be unequivocally concluded that the verification act had not affected his rights or interests.

26. On 11 November 2016 the Minister of the Environment adopted the new territorial plan of Aukštadvaris Regional Park (see paragraph 22 above).

27. On 27 December 2016 the Vilnius Regional Administrative Court discontinued the proceedings instituted by the applicant, on the grounds that once the territorial plan had been adopted, the verification act of the Inspectorate (see paragraph 22 above), which had been an interim document in the planning process, could no longer be contested. The applicant lodged an appeal against that decision, but on 1 March 2017 the Supreme Administrative Court dismissed it.

28. Subsequently the applicant asked the courts to annul the Minister of the Environment's decision to adopt the territorial plan (see paragraph 26 above). However, the courts refused to examine his request, on the grounds that the minister's decision had not been specifically directed at the applicant, and therefore he did not have standing to contest it.

B. Relevant domestic law and practice

1. The Constitution, and case-law of the Constitutional Court

(a) Protection of the environment

29. Article 54 of the Constitution enshrines the duty of the State to take care of the protection of the natural environment, wildlife and plants, individual objects of nature, and particularly valuable areas, and to supervise the sustainable use of natural resources, as well as their restoration and increase. It further states that the destruction of land and the subsurface, the pollution of water and air, radioactive impact on the environment, as well as the depletion of wildlife and plants, shall be prohibited by law.

30. Article 46 states, *inter alia*, that the State shall regulate economic activity so that it serves the general welfare of the nation.

31. In its ruling of 5 July 2007 the Constitutional Court held:

> "Land, forests and water bodies are special objects of property law, since the proper use and protection [thereof] is a condition for the survival and development of human beings and society, as well as the basis of the nation's welfare. The Constitution treats

the natural environment, its flora and fauna, individual objects of nature and particularly valuable areas as national values of universal importance. It is in the public interest, which the State is obliged to protect, to ensure their protection, [and] to guarantee that natural resources are used in moderation, and that they are restored and augmented ...

The notion of 'particularly valuable areas' in Article 54 § 1 of the Constitution implies that certain areas of the territory of Lithuania which, owing to their ecological, cultural, historical, scientific and other significance, differ from other areas ... not only may but must be categorised as particularly valuable. Under the Constitution, the legislature enjoys the authority and discretion to decide which areas should be categorised as particularly valuable; however, such categorisation must be duly reasoned. Individual areas may be categorised as particularly valuable areas in accordance with the criteria established by law (taking account of their ecological, cultural, historical, scientific and other value, and so on).

...

[T]he legislature ... also has the authority to establish a special regime for the protection and use of [particularly valuable] areas ..., [which] implies, *inter alia*, certain conditions, limitations and prohibitions on economic and other activity in these areas which may risk changing the landscape or individual objects situated in those areas.

...

In view of the fact that natural and other objects situated in particularly valuable areas may belong to various actors, such as the State, municipalities, legal entities and individuals, the previously discussed limitations and prohibitions may be established not only with regard to the State and municipalities, but also individuals and legal entities. [The measures] aimed at securing the protection of particularly valuable areas can interfere with owners' property rights ... to plots of land, forests, parks and water bodies. [The measures] must be based on the Constitution and must not restrict the rights of the owners and other persons any more than is necessary to achieve the universally important objectives ..."

(b) Access to court

32. Article 30 provides that anyone whose constitutional rights or freedoms are violated shall have the right to apply to a court.

33. The Constitutional Court's case-law on the right of access to a court was summarised in *Kristiana Ltd. v. Lithuania* (no. 36184/13, §§ 72-74, 6 February 2018).

34. In particular, in its ruling of 13 May 2010 the Constitutional Court held:

"Article 30 § 1 of the Constitution enshrines the constitutional principle of judicial defence. This principle is universal – every person who thinks that his or her rights or freedoms have been violated has the right to judicial defence ... An individual's rights and legitimate interests must be defended in court regardless of whether or not they are directly provided for by the Constitution. The right of access to a court is absolute, it may not be limited or denied, or artificially restricted, and exercising it may not be made unreasonably burdensome. If the constitutional right of access to a court was not ensured, the generally recognised legal principle *ubi ius*, *ibi remedium* – where there is a certain right (freedom), there must be a measure for its protection – would also be

disregarded. A situation where a certain right or freedom may not be defended, including by means of judicial procedure, even though the individual himself or herself believes that this right or freedom has been violated, is not allowed or tolerated under the Constitution ..."

2. Legal instruments concerning protected areas

(a) The Law on Protected Areas from 4 July 1995 until 3 December 2001

35. The Law on Protected Areas created two categories of State parks (*valstybiniai parkai*) – national and regional parks (Article 21). The Law prohibited land in State parks being given for, *inter alia*, the construction of individual summer houses (Article 25 § 2). It also stated that the use of land, forest, water and other immovable property in State parks and landscape reserves (*kraštovaizdžio draustiniai*), as well as changes to the established ways in which they were used, could be subject to restrictions (Article 16 § 4 (1), Article 17 §§ 2 and 3, and Article 25 § 5). Furthermore, the Law created various types of zones of protection (*apsaugos zonos*), including protected landscape objects and surface water bodies, which would be subject to restrictions established in separate legal instruments (Articles 33 and 34).

36. Under the Law, the purpose of land in protected areas could be changed only in accordance with laws and territorial planning documents, approved in compliance with an order adopted by the Government (Article 5 § 7).

(b) The Law on Protected Areas from 4 December 2001 to 31 December 2016

37. The Law prohibited construction in nature reserves (*draustiniai*), unless it was related to the purpose for which the reserve had been established, or was in a place where there was already a homestead or where one had previously existed; the previous existence of a homestead could be determined by the existence of its remains, or by it being marked in area plans, or by a court establishing such a fact (Article 9 § 2 (8)).

38. The purpose of conservational and forest land in protected areas could be changed only if this was in the public interest or aimed at preserving objects of natural or cultural heritage, and only as long as this was in accordance with the relevant territorial plans (Article 31 § 8). From 16 July 2013 onwards the purpose of such land could be changed in order to rebuild a homestead which had previously existed on that land, or when a lawfully built residential house was present on the land (Article 31 § 8 (2)).

(c) The Regulation on the Protection of Aukštadvaris Regional Park

39. The Regulation on the Protection of Aukštadvaris Regional Park was adopted on 10 August 2002 by order no. 412 of the Minister of the Environment. From the date of its adoption until 3 February 2014 it stated that new homesteads could be built in the territory of the regional park only

when that had been provided for in the relevant planning documents (point 26 of the regulation until 8 April 2008, and point 11 after that date). As of 4 February 2014 the regulation states that new recreational buildings or farmhouses in nature reserves may not be built, nor may such buildings be reconstructed where they already exist (point 30.1).

3. Legal instruments and case-law concerning territorial planning

(a) The Law on Territorial Planning

40. In accordance with the Law on Territorial Planning, which was valid at the material time, all territorial planning was public (Article 30 § 1). Throughout the entire planning process, the public had the right to submit proposals to the entity in charge of preparing a territorial plan (Article 32 § 1). The entity in charge of preparing the plan had to provide well-reasoned responses in writing to the individuals who had submitted the proposals, and those individuals had the right to lodge complaints against the responses with the institution supervising the planning process (Article 32 § 2).

41. When the plan was prepared, the entity in charge of preparing it would forward all the planning documents, including a summary of all the proposals which had been received and the reasons for accepting or rejecting them, to the institution in charge of verifying the plan (Article 32 § 2).

42. Individuals whose rights and legitimate interests had been breached by an administrative decision had the right to challenge that decision before administrative courts (Article 32 § 4 (1)).

(b) Procedure for verifying territorial planning documents

43. On 5 November 2012 the Minister of the Environment and the Minister of Agriculture adopted order no. D1-904/3D-844, which established the procedure for verifying territorial planning documents. From the date of its adoption until 31 December 2013 it provided that while a territorial planning document was being verified, there had to be an examination of whether the responses given to members of the public who had submitted proposals had been in accordance with the relevant law (point 7.7 of the order). As of 1 January 2014 the order provides that while a territorial planning document is being verified, there has to be an examination of whether the document has been amended in accordance with those proposals which have been accepted, and whether the rejection of proposals was well founded (point 7.7).

44. As of 1 January 2014 the order provides that a verification act which has been adopted in violation of the relevant law may, until the adoption of the planning document, be annulled by either the authority which adopted the verification act or a court (point 32).

(c) Case-law of the Supreme Administrative Court

45. In its decision of 6 February 2012 in administrative case no. A[502]-169/2012, the Supreme Administrative Court held that the law did not oblige the entity in charge of preparing a territorial plan to accept all proposals submitted to it by the public – it was only obliged to provide well-reasoned explanations for rejecting such proposals to the individuals who had submitted them. The proposals submitted by the public and the reasons for accepting or rejecting them had to be assessed not when the responses provided by that entity were examined, but when the territorial plan was being verified and co-ordinated with other relevant authorities. How the proposals had been considered, and whether sufficient explanation for rejecting them had been provided, would only be examined when the territorial plan was verified.

46. In its decision of 24 August 2012 in administrative case no. AS-575-271/2012, the Supreme Administrative Court held that, in accordance with its established case-law, a verification act adopted by an institution in charge of supervising territorial planning and construction on a national scale was an integral part of the territorial planning procedure, and a separate claim against such an act could not be lodged with a court.

COMPLAINT

47. The applicant complained under Article 6 § 1 of the Convention that he had not had access to a court because his complaints of the unfair dismissal of his proposals to change the purpose of his land had not been examined on the merits by any court.

THE LAW

48. The applicant complained that he had not had effective access to a court to challenge the dismissal of his proposals by planning authorities. He relied on Article 6 § 1 of the Convention, the relevant part of which reads:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. The parties' submissions

1. The Government

49. The Government submitted that Article 6 of the Convention was not applicable to the proceedings which were the subject of the applicant's complaint, because those proceedings had not concerned a "right" which could be said, at least on arguable grounds, to be recognised under domestic law.

50. Firstly, they submitted that the domestic law did not allow construction on the applicant's land (see paragraphs 35-37 above) and that he had been aware of the applicable restrictions at the time when he had bought it (see paragraph 3 above). The territorial plan adopted in 2016 (see paragraph 26 above) had not changed the status of the applicant's plot or the restrictions which were applicable to it (see paragraphs 15 and 16 above). Therefore, the Government argued that the applicant's civil rights had not been affected by the new territorial plan.

51. Furthermore, the applicant could not have had a legitimate expectation to change the purpose of his land. The law provided for very limited conditions under which the purpose of land situated in protected areas could be changed (see paragraph 38 above), and the applicant's plot did not fulfil any of those conditions (see paragraph 8 above). In order to change the purpose of the land and enable construction on it, the applicant should have lodged a claim with the courts of general jurisdiction, asking them to establish as a fact of legal significance that there had previously been a homestead on his plot (see paragraph 38 above). In the absence of any such decision by a court, the proceedings which he had instituted against the planning authorities could not have led to the outcome which he had sought. Accordingly, the Government argued that those proceedings had not been "decisive" for the determination of the applicant's civil rights.

52. Moreover, the Government emphasised that the process of territorial planning was aimed at protecting the common good – the environment – and therefore proposals submitted by individuals could be accepted only when they were in the public interest. However, the applicant's proposals had pursued solely his own personal interest in building a homestead, or even possibly legalising the unlawful construction which he had built on the plot (see paragraphs 5-12 above). As to the proposal to change the purpose of his land to education, the Government considered it to be "purely speculative", because normally such requests were submitted by scientists or research entities, and the applicant's land was not suitable for environmental research (see paragraph 15 above).

53. In addition, the Government submitted that the applicant had failed to exhaust domestic remedies. In particular, when lodging a complaint against the verification act, he had not asked the courts to apply interim measures and suspend the planning process until that complaint was examined. In the absence of any such request, the planning process had continued and the new territorial plan had been adopted (see paragraph 26 above), and consequently the courts could no longer examine the complaint against the verification act, which had been an interim document in the planning process (see paragraphs 27 and 46 above).

54. Lastly, the Government argued that, in any event, the degree of access to a court accorded to the applicant had been sufficient to secure his "right to a court". Under the domestic law, the planning authorities had a certain degree of discretion and were not obliged to accept all the proposals

submitted to them by the public, and only had to provide responses in writing, explaining the reasons for the rejection (see paragraphs 40 and 45 above). The applicant's proposals had been duly considered by the relevant authorities and dismissed by decisions which had been thoroughly reasoned and based on relevant environmental considerations (see paragraphs 15-17 above). The applicant had been able to lodge his complaints with courts, and the courts had examined whether the planning authorities had acted in accordance with the law.

2. The applicant

55. The applicant contended that by submitting his proposals to the planning authorities he had sought to modify "the unjustified restrictions" applicable to his land. He submitted that the new territorial plan of Aukštadvaris Regional Park had relaxed the restrictions applicable to some plots of land; some of the proposals submitted by owners of other plots (including one situated near the applicant's plot) had been taken into account, and construction and farming had been allowed in the regional park to some extent. The applicant argued that certain types of construction and farming on at least some parts of his land would be in accordance with the law. In his view, the new territorial plan directly violated his rights.

56. Furthermore, he submitted that changing the purpose of his land was possible only if this was provided for in the territorial plan of Aukštadvaris Regional Park (see paragraph 38 above). However, the authorities in charge of preparing territorial planning documents had a broad discretion, and the involvement of the public in the planning process was limited to the right to submit proposals; even when those proposals were reasonable, the authorities were not obliged to accept them (see paragraph 40 above). Therefore, the possibility of changing the purpose of the land was at the "mercy" of the planning authorities.

57. The applicant also submitted that the domestic law provided for the possibility for individuals to lodge appeals against administrative decisions adopted during the territorial planning process with a court (see paragraph 42 above). However, the merits of his proposals had not been assessed by a court at any stage. Before the verification act had been adopted, the courts had refused to examine whether the dismissal of the proposals had been justified, stating that that would be done at the verification stage (see paragraphs 20 and 21 above). However, in line with the case-law of the Supreme Administrative Court, a verification act was considered to be an interim document in the planning process which could not be challenged before a court (see paragraph 46 above). Meanwhile, the territorial plan itself was considered to be a normative legal act which the applicant did not have the right to contest (see paragraph 28 above). The applicant argued that it was unclear at what stage of the planning procedure

he should have complained in order to have the courts address the merits of his proposals.

58. Lastly, he submitted that there was no relevant domestic case-law to demonstrate that a request for interim measures (see paragraph 53 above) would have been an effective remedy in his case.

B. The Court's assessment

59. At the outset, the Court must determine whether Article 6 § 1 of the Convention is applicable in the present case. It reiterates that for that provision to be applicable in its "civil" limb, there must be a dispute over a "right" which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether it is protected under the Convention (see, among many other authorities, *Boulois v. Luxembourg* [GC], no. 37575/04, § 90, ECHR 2012).

60. Article 6 § 1 does not guarantee any particular content for "civil rights and obligations" in the substantive law of the Contracting States: the Court may not create by way of interpretation of Article 6 § 1 a substantive right which has no legal basis in the State concerned (ibid., § 91, and the cases cited therein). The starting point must be the provisions of the relevant domestic law and their interpretation by the domestic courts. This Court would need strong reasons to differ from the conclusions reached by the superior national courts by finding, contrary to their view, that there was arguably a right recognised by domestic law (ibid.).

61. In the present case, the proposals which the applicant submitted to the domestic authorities related to the limitations on the use of his land. The Court observes that the applicant's plot was already part of Aukštadvaris Regional Park at the time when he bought it (see paragraph 3 above). According to the Constitution of Lithuania and the case-law of the Constitutional Court, the State has an obligation to protect valuable natural areas which are important to the public interest, and when doing so it may restrict the rights of individuals – including property rights – to the extent necessary (see paragraphs 29-31 above).

62. In this connection, the Court reiterates that environmental conservation, which in today's society is an increasingly important consideration, has become a cause whose defence arouses the constant and sustained interest of the public, and consequently the public authorities (see *Depalle v. France* [GC], no. 34044/02, § 81, ECHR 2010, and the cases cited therein). It has stressed this point a number of times, notably with regard to the protection of forests (see *Beinarovič and Others v. Lithuania*, nos. 70520/10 and 2 others, § 135, 12 June 2018), coastal areas (see *N.A. and Others v. Turkey*, no. 37451/97, § 40, ECHR 2005-X) and cultural heritage (see *Kristiana Ltd. v. Lithuania*, no. 36184/13, § 104, 6 February 2018). Moreover, the Court has often reiterated that regional planning and environmental conservation policies, where the community's general

interest is pre-eminent, confer on the State a margin of appreciation that is greater than when exclusively civil rights are at stake (see *Depalle*, cited above, § 84, and the cases cited therein).

63. In his proposals, the applicant essentially asked to modify the restrictions which were applicable to his land, in order to be able to use it for either recreation (including the construction of a homestead) or environmental research (see paragraph 14 above).

64. As concerns the latter proposal, the Court observes that the applicant did not argue either before the domestic authorities or before the Court that he was a scientist or a researcher, or that carrying out environmental research on his land had any direct link to his rights and interests (see paragraph 14 above). Instead, it appears that he presented that proposal as having been made in the public interest. However, the Court has previously held that none of the provisions of the Convention are specifically designed to provide general protection of the environment as such (see *Kyrtatos v. Greece*, no. 41666/98, § 52, ECHR 2003-VI (extracts), and *Dubetska and Others v. Ukraine*, no. 30499/03, § 105, 10 February 2011). In its view, the authorities' refusal to allow the applicant to use his land for environmental research did not directly affect his civil rights and obligations (see, *mutatis mutandis*, *Athanassoglou and Others v. Switzerland* [GC], no. 27644/95, §§ 52-55, ECHR 2000-IV), and Article 6 § 1 of the Convention is not applicable in respect of this part of the complaint.

65. The Court will now turn to the applicant's proposal to change the purpose of his land to recreation and to allow him to build a homestead (see paragraph 14 above). It observes that on the date when the applicant bought the plot construction on it was prohibited, and it was not allowed on any subsequent date (see paragraphs 3 and 4 above). The restrictions applicable to the plot were indicated in the Real Estate Register, and the applicant never claimed that he had not been aware of them (for a similar situation, see *Kristiana Ltd.*, cited above, § 110). The fact that construction was prohibited was also confirmed by the courts in two sets of proceedings concerning the building which the applicant had unlawfully constructed on his land (see paragraphs 5-12 above).

66. Furthermore, since the plot was situated inside a regional park, the possibility to change its purpose was limited – that could only be done if the specific conditions provided for by law were met: if it was in the public interest, or aimed at preserving objects of natural or cultural heritage; in order to rebuild a homestead which had previously existed on that land; or when a lawfully built residential house was present on the land (see paragraph 38 above). The applicant argued before the domestic authorities that several of those conditions had been met in his case, but they dismissed his arguments after a thorough examination (see paragraphs 6, 8, 10-12 and 16 above).

67. In this connection, the Court reiterates that, according to its long-standing and established case-law, it is not for this Court to deal with

alleged errors of law or fact committed by the national courts unless and in so far as they may have infringed rights and freedoms protected by the Convention (see, among many other authorities, *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I). It sees no reason to substitute its own findings for those of the domestic authorities, and is satisfied that the applicant's plot did not meet the conditions provided for by the domestic law under which its purpose could be changed.

68. Accordingly, the Court finds that the applicant did not have an arguable claim under the domestic law to change the purpose of that land or build on it, either at the time when he bought the land or on any subsequent date. The new territorial plan of Aukštadvaris Regional Park in no way changed the restrictions which were applicable to the applicant's plot – in particular, it did not increase those restrictions and did not interfere with any rights which the applicant already had (see paragraphs 15 and 16 above; compare and contrast *Turgut and Others v. Turkey*, no. 1411/03, §§ 84 and 88, 8 July 2008, and *Beinarovič and Others*, cited above, §§ 121 and 132).

69. In such circumstances, the Court is unable to find that the proceedings which are the subject of the applicant's complaint concerned the determination of his civil rights and obligations. Accordingly, Article 6 § 1 of the Convention is not applicable in the present case.

70. In the light of this conclusion, the Court considers that it is not necessary to address the remaining arguments submitted by the parties.

71. It follows that the application must be declared inadmissible, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 July 2020.

Hasan Bakırcı	Ivana Jelić
Deputy Registrar	President